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6 Attorneys for Defendants
 7 APEX STORES, LLC; Apex LLC; Apex At Home, LLC

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 OAKLAND DIVISION

11
 12 24 Hour Fitness USA, Inc.,

Case No. 4:08-cv-01681-SBA

13 Plaintiff,

14 v.
SUPPLEMENTAL DECLARATION OF
ANDREW A. GATES

15 Apex Stores, LLC; Apex, LLC; Apex At
 Home, LLC

16 Defendants.
 Honorable Saundra Brown Armstrong
 United States District Judge

17
 18 Hearing Date: September 9, 2008
 Hearing Time: 1:00 p.m.
 Courtroom: 3

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 21 I, Andrew A. Gates, hereby under oath depose and state as follows:

22 1. The matters set forth in this declaration are based upon my personal
 23 knowledge. I am a resident of the Commonwealth of Massachusetts. I make this declaration
 24 in support of the Defendants' Motion to Dismiss the above-captioned lawsuit.

25 2. Over the years, Apex Stores, LLC has registered approximately 1,500 domain
 26 names, including approximately 180 to 200 domain names that directly reference "Apex".
 27 Many of the domain names registered by Apex Stores, LLC are related to the operations and

1 retail services carried out by Apex Stores, LLC from 1999-2001, and subsequently by Apex
2 At Home, LLC.

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5 Signed and sworn to under the pains and penalties of perjury this 28th day of
6 August, 2008.

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/s/ Andrew A. Gates
Andrew A. Gates

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Attorney Attestation

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As the attorney e-filing this document, and pursuant to General Order No. 45, I hereby
attest that Andrew A. Gates has concurred in this filing.

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Dated: August 28, 2008

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/s/ Nathaniel Bruno
Nathaniel Bruno